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6 Attorneys for Third Parties  
THEODORE KRAMER and  
7 THOMAS SCARAMELLINO

8 SUPERIOR COURT OF CALIFORNIA  
9  
10 COUNTY OF SAN MATEO

11 **Six4Three**, a Delaware limited liability  
12 company,

13 Plaintiff;

14 v.

15 **Facebook, Inc.**, a Delaware corporation;  
16 **Mark Zuckerberg**, an individual;  
**Christopher Cox**, an individual; **Javier**  
17 **Olivan**, an individual; **Samuel Lessin**, an  
individual; **Michael Vernal**, an individual;  
18 **Ilya Sukhar**, an individual; and **Does 1-50**,  
inclusive,

19 Defendants.  
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**FILED**  
**SAN MATEO COUNTY**

JUN 04 2019

Clerk of the Superior Court

By  DEPUTY CLERK

Case No. CIV533328

Assigned for all purposes to Hon. V.  
Raymond Swope, Dep't 23

**DECLARATION OF JACK RUSSO IN SUPPORT  
OF OPPOSITION TO FACEBOOK'S EX PARTE  
APPLICATION**

Date: June 7, 2019  
Time: 2:00 p.m.  
Department: 23

Action Filed April 10, 2015  
Trial Date: None set

CIV533328  
DIO  
Declaration in Opposition  
1859006



1 I, Jack Russo, declare under penalty of perjury as follows.

2 1. My name is Jack Russo. I am managing partner of Computerlaw Group LLP and  
3 counsel for third parties Theodore Kramer and Thomas Scaramellino. I am a member in good  
4 standing of the California State Bar and have been since I was admitted over thirty-five (35)  
5 years ago. I make the following statements based on my personal knowledge, and I believe them  
6 to be true. I could and would testify competently if called as a witness.

7 2. On June 3, 2019, Facebook submitted its *Ex Parte* Application for an Order to  
8 Compel Attendance of Theodore Kramer. Counsel for Facebook did not contact anyone from my  
9 firm regarding this request prior to filing this *Ex Parte* Application.

10 3. My client Theodore Kramer is willing to appear and answer any questions the  
11 Court may have regarding his Declaration submitted on Friday May 31, 2019, as well as his  
12 efforts to secure new counsel for Plaintiff Six4Three, however, because of the proximity of this  
13 new request to Friday's hearing, and the fact that Friday's hearing was already moved forward  
14 several weeks to the June 7 date at Facebook's request, Mr. Kramer has several long-scheduled  
15 business appointments in New York on Friday, June 7 that he is unable to defer or cancel.

16 4. Additionally, between the dates of June 11 and June 25, I will be travelling to be a  
17 speaker at and to attend a legal symposium in Europe and I will be unable to appear until after  
18 returning on June 25, 2019.

19 5. I can attend on June 7, but Mr. Kramer cannot do so. In order to facilitate  
20 Facebook's request, we therefore respectfully request that the Case Management Conference be  
21 rescheduled to June 26, 2019, at which time I have confirmed Mr. Kramer is able to appear. In  
22 the alternative, we respectfully request that Mr. Kramer be allowed to appear by telephone,  
23 which counsel for Facebook has agreed to.

24 6. Upon receiving Facebook's *Ex Parte* Application, I sent a letter to counsel for  
25 Facebook explaining the above concerns. A true and correct copy of that letter is attached hereto  
26 as **Exhibit 1**.

27 7. A true and correct copy of the letter I received in response is attached hereto as  
28 **Exhibit 2**.



# **EXHIBIT 1**

# COMPUTERLAW GROUP LLP

ATTORNEYS AT LAW  
401 FLORENCE STREET  
PALO ALTO, CALIFORNIA 94301  
COMPUTERLAW.COM

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June 3, 2019

## Via Email

Zachary Abrahamson  
217 Leidesdorff Street  
San Francisco, CA 94111  
zabrahamson@durietangri.com

**Re:** Six4Three, LLC v. Facebook, Inc. et al.  
San Mateo Super. Ct. Case No. CIV 533328

Dear Counsel:

This correspondence regards the *Ex Parte* Application filed this morning to compel the appearance of Mr. Kramer at this Friday's hearing. Your *Ex Parte* Notice was the first our firm or Mr. Kramer became aware that there was any request for him to appear personally at this hearing. If we did not receive any correspondence from you regarding this request, please let us know.

Mr. Kramer is willing to appear and answer any questions the Court may have regarding the declaration he submitted on Friday May 31 or on his efforts to secure representation for Plaintiff in this matter, however, due to the proximity of this request to the scheduled hearing date, as well as the fact that the hearing has already been moved forward from its original date, Mr. Kramer already has several long-anticipated business appointments scheduled for this Friday in New York. As such, he will be unable to appear this Friday. Additionally, I will be out of town from Tuesday June 11 through Tuesday June 25 to lecture at a legal symposium in Austria.

We and Mr. Kramer are willing to cooperate with you to secure a date on which Mr. Kramer would be able to appear and answer the Court's questions. We can confirm that June 26, 2019 would work for this purpose. Please let us know if this date is agreeable to you.

Please advise.

Very truly yours,

  
Jack Russo

Cc: Counsel of Record via email

# **EXHIBIT 2**

# DurieTangri

Zachary Abrahamson  
415-376-6485 (direct)  
415-362-6666 (main)  
zabrahamson@durietangri.com

June 3, 2019

## VIA EMAIL

Jack Russo  
COMPUTERLAW GROUP LLP  
401 Florence Street  
Palo Alto, CA 94301  
jrusso@computerlaw.com

Re: *Six4Three, LLC v. Facebook, Inc.*  
Case No. CIV 533328

Dear Mr. Russo,

We are in receipt of your letter dated June 3, 2019. We understand that Mr. Kramer is willing to appear and answer any questions the Court may have regarding the declaration he submitted on Friday, May 31, but will be in New York for unspecified business appointments on Friday, June 7. Because the Court's case management conference is scheduled for 2:00 p.m. Pacific Time (5:00 p.m. Eastern Time), we expect that Mr. Kramer's "business appointments" will have concluded by the conference's start. Accordingly, we trust that Mr. Kramer will stipulate to appear by telephone for this Friday's conference. Please confirm that he will do so.

Regarding the date of the conference, Facebook is not available on June 26. As we explained at the last hearing, both Ms. Mehta and Mr. Lerner are scheduled to be out on family vacations during that time.

Finally, to the extent that you are involved in the preparation of Mr. Kramer's response to Facebook's *ex parte* application, we request that you include this letter with Mr. Kramer's response.

June 3, 2019

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Very truly yours,

A handwritten signature in black ink, appearing to read 'Zachary Abrahamson'.

Zachary Abrahamson

ZA:co

cc: Counsel of record



# **EXHIBIT 3**

COMPUTERLAW GROUP LLP

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June 3, 2019

**Via Email**

Zachary Abrahamson  
217 Leidesdorff Street  
San Francisco, CA 94111  
zabrahamson@durietangri.com

**Re:** Six4Three, LLC v. Facebook, Inc. et al.  
San Mateo Super. Ct. Case No. CIV 533328

Dear Counsel:

Thank you for your prompt response to our letter. We can confirm that Mr. Kramer is available and willing to stipulate to appear by telephone at this Friday's Case Management Conference. Please forward your stipulation to us as soon as is convenient.

This letter does not constitute agreement that Mr. Kramer must submit to questioning or otherwise provide further information except as is requested by Judge Swope specifically. The foregoing is without prejudice to the individual rights of Mr. Kramer as he is not a party to this action nor has he been subpoenaed to appear or otherwise ordered by the Court to appear.

Very truly yours,

  
Jack Russo

Cc: Counsel of Record via email